

Decision: 2002 ME 111

Docket: Pis-01-713

Submitted

on Briefs: June 27, 2002

Decided: July 10, 2002

Panel: SAUFLEY, C.J., and CLIFFORD, RUDMAN, DANA, ALEXANDER, CALKINS, and LEVY, JJ.

STATE OF MAINE

v.

JOSEPH J. NUGENT III

ALEXANDER, J.

[¶1] Joseph J. Nugent III appeals from a judgment by the District Court (Dover-Foxcroft, *Stitham, J.*) finding him to have committed the traffic infraction of speeding fifty miles per hour in a twenty-five mile-per-hour zone. *See* 29-A M.R.S.A. § 2074 (1996 & Supp. 2001). Nugent asserts that (1) he was not allowed to make a statement to the court but instead was required to proceed by questions and answers, and (2) he was improperly deprived of his right to a jury trial. We affirm.

[¶2] No transcript or statement in lieu of a transcript of the court hearing has been provided. *See* M.R. App. P. 5(b)(2), (d), (f). Thus, it is impossible to assess the validity of Nugent's first point of appeal. When the record on appeal

does not include a transcript of the proceedings below, we must assume that the transcript would support the trial court's findings of fact and its rulings on evidence and procedure. *Putnam v. Albee*, 1999 ME 44, ¶ 10, 726 A.2d 217, 220.

[¶3] Nugent's second point on appeal, that he had a right to a jury trial in this speeding infraction case, is resolved by our ruling in *State v. Anton*, 463 A.2d 703 (Me. 1983). In *Anton* a right to a jury trial in a speeding infraction case was asserted, based on the Maine Constitution. We held that (1) "traffic infraction proceedings are not 'criminal prosecutions' for which the right to trial by jury is guaranteed by article I, section 6 of the Maine Constitution," *id.* at 708, and (2) there is no civil jury trial right for traffic infraction proceedings afforded by article I, section 20 of the Maine Constitution, *id.* at 708-09. The scholarly review of the law undertaken by Justice Godfrey in *Anton* remains good law today. There is no right to a jury trial in traffic infraction cases.

The entry is:

Judgment affirmed.

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